

1 **TIFFANY & BOSCO**
2 P.A.

3 **SEVENTH FLOOR CAMELBACK ESPLANADE II**
4 **2525 E. CAMELBACK ROAD**
5 **PHOENIX, ARIZONA 85016**
6 **TELEPHONE: (602) 255-6000**
7 **FACSIMILE: (602) 255-0192**

8 Mark S. Bosco
9 State Bar No. 010167
10 Leonard J. McDonald
11 State Bar No. 014228
12 David W. Cowles
13 State Bar No. 021034
14 Attorneys for Secured Creditor

15-00220

16 **IN THE UNITED STATES BANKRUPTCY COURT**
17 **FOR THE DISTRICT OF ARIZONA**

18 Judith V. Brown

19 No. 2:12-bk-11597-GBN

20 Debtor.

21 Chapter 11

22 **LIMITED OBJECTION TO CHAPTER 11 PLAN**

23 Re: Property Located at
24 6259 East Horseshoe Road,
25 Paradise Valley, AZ 85253

26 The Bank of New York Mellon fka The Bank of New York as Trustee for the Certificateholders of
27 CWMBS, Inc., CHL Mortgage Pass-Through Trust 2004-HYB5, Mortgage Pass Through Certificates,
28 series 2004-HYB5, ("Secured Creditor"), by its attorneys, TIFFANY & BOSCO, P.A., hereby objects to
29 the proposed Chapter 11 Plan (the "Plan") filed by the Debtor for the following reasons:

- 30 1. The Plan provides for an impermissible cram down of Secured Creditor's lien interest on
31 the real property commonly known as 6259 East Horseshoe Road, Paradise Valley, AZ 85253.

2. Secured Creditor objects as the loan modification is under review and has not been approved to date. Should the loan modification review be denied, Debtor must pay pursuant to the existing loan documents. This is Debtor's primary residence, and may not be modified pursuant to 11 USC §1123(b)(5). 11 USC §1123(b)(5) provides in part:

Subsection (B) Subject to subsection (a) of this section, a Plan may...

Subsection (5) Modify the rights of holders of secured claims, other than a claim secured only by security interest in real property that is the Debtors principle residence...

Because the Plan attempts to modify the rights of Secured Creditor's claim secured by a lien interest in the property, which is the Debtor's personal residence, the Plan violates 11 USC § 1123(b)(5) and therefore is not confirmable pursuant to 11 USC 1129 (a)(1).

WHEREFORE, Secured Creditor prays as follows:

(1) That the Plan be denied.

(2) For such other relief as this Court deems proper.

DATED this 30th day of January, 2015.

Respectfully submitted,

TIFFANY & BOSCO, P.A.

BY /s/ LJM #014228
Mark S. Bosco
Leonard J. McDonald
David W. Cowles
Attorneys for Secured Cred

COPY of the foregoing mailed
January 30, 2015 to:

Judith V. Brown
6259 E. Horseshoe Rd.
Paradise Valley, AZ 85253
Debtor

1 FORAKIS LAW FIRM
2 346 E. Palm Lane
Phoenix, AZ 85004
Attorney for Debtor

3 Office of the U.S. Trustee
4 230 North First Avenue
Suite 204
5 Phoenix, AZ 85003
Trustee

6

7 By: *Gail Hardin*

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26